

REMARKS

Claims 1-25 are pending. Claims 1-25 have been cancelled and new claims 33-54 have been added. Support for the new claims is provided in the specification. No new matter is believed to have been added.

Rejection under 35 § U.S.C. 102(b) and 102(e)

The Examiner has rejected claims 2-9, 12-13, 16-19 and 21 under 35 U.S.C. §102(b) as being anticipated by Comb et al. The Examiner points out that Comb et al. describes *in vitro* transsplicing between two non-toxic protein fragments encoded by DNA contained in separate vectors where each contain a fragment of a CIVPS made *in vivo* (for example in different *E.coli* cells) such that *in vitro* transsplicing produces a single toxic protein.

The present claims as amended require prevention of migration between related host systems or environment of a transgene coding for a target protein. The Comb reference does not teach or suggest how transgene migration can be prevented between related host systems.

The Examiner has rejected claims 1-3, 7-8, 12-13, 18-19, 21 and 25 under 35§ U.S.C. 102 (e) where the Examiner states that the protein complementation assay in *E.coli* described by Melnick which involves *in vivo* assembly of two protein fragments fused to interacting

proteins and cotransfected into cells can result in reassembly of a dimeric protein where protein-protein interacts can be studied.

The present claims as amended require prevention of migration between related host systems or environment of a transgene coding for a target protein. The Melnick reference does not teach or suggest how transgene migration can be prevented between related host systems.

For the reasons provided above, the rejections under 35 U.S.C. § 102 should be reversed.

Rejection under 35 U.S.C. § 112

The Examiner has asserted that the method claims prior to amendment do not carry out what the preamble states. Independent claim 1 has been amended so that step (c) carry out what the preamble states.

The Examiner has further objected to "from within the organism" in the context of the unamended claim 2. Applicants have amended the claims to remove the term.

SUMMARY

For the reasons set forth above, Applicants respectfully request that the rejections set forth in the Official Action of September 30, 2003, be withdrawn and submit that this case is in condition for immediate allowance. Early and favorable consideration leading to prompt issuance of this Application is earnestly solicited.

We petition for a three-month extension of time to file a response. A check in the amount of \$475.00 is enclosed. Please charge any deficiencies to Deposit Account No. 14-0740.

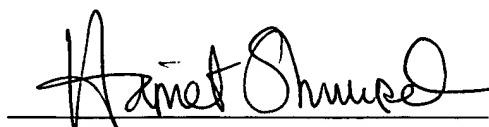
Should the Examiner wish to discuss any of the remarks made herein, the undersigned attorney would appreciate the opportunity to do so. Thus, the Examiner is hereby authorized to call the undersigned collect at the number shown below.

Respectfully submitted,

NEW ENGLAND BIOLABS, INC.

Date: March 25, 2004

Customer No.: 28986


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